

Amendment to the Drawings

The Examiner has requested that all claimed features of the invention be shown in the drawings. Applicants have canceled all claims reciting “resistive force attachment means” attached to any part of the bar or handgrips. Applicants assert that the term “resistive force attachment means”, as used in the remaining claims, are well known in the art (i.e., is prior art) and are only claimed in combination with the novel structural features of the invention. Thus, the term “resistive force attachment means”, as used in the currently pending claims, means a collar that is used to prevent free weights from falling off of the bar. It is identical with the prior art resistive force attachment means and is obvious to one of ordinary skill in the art.

With respect to the tubular sleeve overlying the handgrips, again, the form of such a sleeve is obvious to one of ordinary skill in the art. The (cylindrical) handgrips cannot rotate relative to the bar. The construction and deployment of a tubular sleeve to overlie the handgrip(s) in such a manner that it rotates is obvious to one of ordinary skill in the art and, in view of the last paragraph in the specification, would require no undue further experimentation to implement. Accordingly, a drawing of a handgrip having a tubular sleeve overlying it was omitted for clarity because of the obvious construction thereof. Applicants believe that the claimed invention is disclosed in sufficient detail in the specification and drawings as originally filed to enable one of ordinary skill in the art to practice the invention and no further amendment to the drawings is necessary to meet the requirements for patentability.

STATUS OF THE CLAIMS

Claims 1-17 are pending in the application.

Claims 1, 2, 4, 6, 7, and 10-14 were rejected under 35 USC§102(b) as being anticipated by Pearson '535.

Claims 12-14 and 17 were rejected under 35 USC§102(b) as being anticipated by Carruthers '244.

Claims 1-8 and 11-16 were rejected under 35USC§103 as being unpatentable over Troutman '731 in combination with Brasher '229.

Claim 10 was rejected under 35USC§103(a) as being unpatentable over Troutman '731 in combination with Brasher '229 and further in view of Callahan '668.

Claims 5, 8 and 16 were rejected under 35USC§103(a) as being unpatentable over Pearson '535 in combination with Simonson '402.

Claims 3, 5, 6, 7, 10, 15 and 17 are canceled by this Amendment A, and new claim 18 is added.

Claims 1, 2, 4, 8, 9, 11-14, 16 and 18 (new) remain pending in the application following entry of this Amendment A.

REMARKS

Applicants thanks the examiner for the indication of allowable subject matter, namely claim 9 (if rewritten in independent form).

Summary of the Invention

A barbell comprising an elongate, free-standing bar having sliding handgrips concentrically mounted thereon adapted for use as a resistance-type exercise device. In a preferred embodiment, the bar has at least two, and more preferably four, axially oriented grooves in the outer surface thereof dimensioned to accommodate handgrip linking (coupling) means therewithin. The handgrips, which are constrained to move only in an axial direction, are interconnected on an inner bore surface thereof by coupling means such as belts or cables, in such a manner that the handgrips remain equidistant from the center of the bar throughout their axial range of motion. The interconnecting belts or cables are disposed to travel within the elongate grooves on the bar to provide the bar with a low profile. In the preferred embodiment, the linking means are belts that are supported by pulleys housed within recesses in the bar and rotatably attached thereto. The bar further includes resistive force attachment means operable for attaching free weights thereto to provide a resistive force that is greater than the weight of the bar alone.

The Rejection Under 35USC§102

Claims 1, 2, 4, 6, 7, and 10-14 were rejected under 35 USC§102(b) as being anticipated by Pearson '535. Briefly, Pearson '535 discloses an exercise machine that includes, *inter alia*, a horizontal bar supported by a pair of upright rigid frame members. The bar includes handgrips that are slideably mounted on the bar. The handgrips may further include interconnecting means operable for maintaining the handgrips equidistant from the respective ends of the bar (Pearson '535, col. 3, lines 15-20, and Figure 7). There is no suggestion in Pearson '535 that the bar can be used in any manner other than as part

of a machine that includes a floor-supported frame. Although fifteen years have elapsed since the issuance of Pearson's '535 patent, the use of a bar having synchronous sliding handgrips mounted thereon as a free-standing exercise device was unknown in the art.

In contrast, the present invention discloses and claims a free-standing bar having a pair of interconnected handgrips slideably mounted on the bar such that the handgrips remain equidistant from the center of the bar at all times throughout their range of motion.

In order for a patent to qualify as a reference supporting a §102 (b) rejection, it must disclose each and every limitation of the rejected claim. It is settled that even only slight differences between the compared inventions prevent a rejection based on lack of novelty under §102. Anticipation under 35 USC§102 requires that the cited references demonstrate each and every element of the claimed invention. Pearson '535 discloses a bar supported by a frame as a part of his exercise machine. The present invention discloses a free-standing bar as an exercise device. In view of the differences between the elements of the present invention and those of the prior art presented herein, it is requested that this rejection be withdrawn.

Claims 12-14 and 17 were rejected under 35 USC§102(b) as being anticipated by Carruthers '244. Briefly, Carruthers '244 discloses a barbell wherein handgrips are rigidly attached to the ends of a telescopically adjustable bar. The handgrips are not slidably mounted on the bar. The length of the bar is adjustable and clamps are provided that enable a user to lock the bar at a preferred length. Again, anticipation under 35 USC§102 requires that the cited references demonstrate each and every element of the claimed invention. Carruthers '244 discloses a barbell having fixed handgrips attached to a telescopically adjustable bar. The present invention, as currently claimed (claim 17 has been canceled),

discloses a barbell having a pair of handgrips slidably mounted on a fixed length bar. In view of the differences between the elements of the present invention and those of the prior art presented herein, it is requested that this rejection be withdrawn.

The Rejection Under 35USC§103

Claims 1-8 and 11-16 were rejected under 35USC§103 as being unpatentable over Troutman '731 in combination with Brasher '229. The Examiner argues that Troutman '731 teaches a barbell substantially identical to the present invention but does not disclose handgrip coupling means or discuss any advantage to be gained by the provision of coupling means interconnecting the handgrips. The Examiner asserts that it would be obvious under 35USC§103 to make the applicants' claimed invention when viewed in the light of Troutman '731 and further in view of Brasher '229.

As noted above, Troutman '731 discloses a barbell having a pair of axially movable handgrips. The Troutman '731 application was filed five years after the issuance of Brasher '229. The Troutman barbell, however, does not include coupling means interconnecting the handgrips and operable for maintaining the handgrips equidistant from the center of the bar. Nor does he/she disclose any advantage to be gained, or problem that is overcome, by doing so. Brasher '229, which issued five years before the filing of Troutman '731, teaches a barbell comprising a bifurcated bar having a pair of ring-type handgrips slidably mounted on the bifurcated portion of the bar. The handgrips are interconnected to maintain them equidistant from the respective ends of the bar. The bifurcated bar has a bulky profile that does not resemble a conventional barbell. There is no teaching in Brasher '229 of a method for adapting the handgrips to be operable on a nonbifurcated bar.

In considering the question of obviousness of the claimed invention in view of the prior art relied upon, the applicant submits that the test for obviousness is what the combined teachings of the prior art would have suggested to one of ordinary skill in the art. The mere fact that the prior art could be combined to provide the instant invention does not make such a combination obvious unless the prior art suggests the desirability of doing so. A *prima facie* case of obviousness is established when the teachings of the prior art itself would appear to have suggested the claimed subject matter to one of ordinary skill in the art.

The law requires an applicant to show only that the claimed combination of structure is non-obvious in view of the prior art under Deere. In fact, the CAFC has made it clear that an invention need not operate differently than the prior art to be patentable, but need only be structurally different. In summary, under Deere (op.cit), and as set forth in *MPEP §706.02*, to establish a *prima facie* case of obviousness of a particular claim, the Patent Office must :

- (a) set forth differences in the claim over the applied references;
- (b) set forth the proposed modification of the references which would be necessary to arrive at the claimed subject matter; and
- (c) explain why the proposed modification would be obvious.

To satisfy step (c), the Patent Office must identify where the prior art provides a motivating suggestion to make the modifications proposed in step (b). The mere fact that the prior art may be modified as suggested by an examiner does not make the modification obvious unless the prior art suggests the desirability of the modification or combination. In the present instance the combination of elements; specifically, the nonbifurcated bar and

the interconnected handgrips recited in independent claims 1 and 12, as currently amended, are different from the elements in the prior art and, moreover, are not suggested by the prior art. Although Troutman and Brasher had both been known to artisans for ten years prior to the filing date of the present invention, it was not until the present inventors conceived the present invention and filed the present application that such a construction became known. Clearly, in view of the balance problem overcome with the present invention, if it had been obvious to combine the teachings of Troutman and Brasher, those skilled in the art would have done so prior to the filing date of the present application. In view of these clarifications regarding the difference between the elements of the present invention and the prior art it is requested that this rejection be withdrawn.

Claim 10 was rejected under 35USC§103(a) as being unpatentable over Troutman '731 in combination with Brasher '229 and further in view of Callahan '668. Claim 10 depends from an allowable claim (Claim 1 (currently amended)). Nevertheless, claim 10 is canceled without prejudice from the present application by this Amendment A.

Claims 5, 8 and 16 were rejected under 35USC§103(a) as being unpatentable over Pearson '535 in combination with Simonson '402. Claims 5 and 8 depend from, and have all the structural limitations of (now allowable) claim 1. Nevertheless, claim 5 is canceled. In view of the amendment made to claim 1, it is apparent that claim 8 is also allowable. Accordingly, it is requested that this rejection be withdrawn.

The Objections to the Specification and Drawings

The specification and drawings of the application have been carefully reviewed in light of the objections raised by the Examiner in the outstanding Office Action. In the

amended specification, a diligent effort has been made to overcome each of these objections. Specifically, the typos and number call-outs have been corrected as suggested by the Examiner. Applicants have reviewed the Examiner's objection to the drawings and submit that the claimed features that are omitted in the drawings have either been canceled from the claims (as presently amended) or are obvious modifications of the novel structure recited in the pending claims which modifications would be obvious to one skilled in the art and/or are well known in the prior art. Applicants respectfully submits that the amended specification and drawings overcome the objections, and an indication to this effect is respectfully requested.

Entry of this amendment, reconsideration, favorable action and early allowance and publication of this application are respectfully requested. If there are any minor matters remaining, it is respectfully requested that the examiner contact the undersigned by phone so that possible minor changes may be discussed in order to expedite the prosecution of this case.

Respectfully,

A handwritten signature in black ink, appearing to read 'Michael G. Petit', written in a cursive style.

Michael G. Petit, Reg. No. 30,795
P. O. Box 91921
Santa Barbara, CA 93190-1929
Tel: 805-563-6556/Fax: 805-563-6615

Certificate of Mailing

I certify that this correspondence will be deposited with the U.S. Postal Service as Express Mail (mailing label No.EV325245926US) with proper postage affixed in an envelope addressed to: "Mail Stop Amendment, Commissioner of Patents, PO Box 1450, Alexandria, VA 22313-1450" on the date below.

Date: 2/6/06

by: _____



Michael G. Petit